

1 LEONARDO M. RAPADAS
2 United States Attorney
3 MARIVIC P. DAVID
4 Assistant U.S. Attorney
5 Suite 500, Sirena Plaza
6 108 Hernan Cortes
7 Hagåtña, Guam 96910
8 Telephone: (671) 472-7332/7283
9 Telecopier: (671) 472-7334/7215
10
11 Attorneys for United States of America

12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF GUAM**

UNITED STATES OF AMERICA,)	CRIMINAL CASE NO. 08-00018
)	
Plaintiff,)	
)	
vs.)	UNITED STATES' MOTION TO
)	CONTINUE TRIAL
)	
ERNESTO PAGLICAWAN VERDERA and)	
MARK ANTHONY BARTOLOME,)	
)	
Defendants.)	
_____)	

19
20 The United States, through undersigned counsel, respectfully moves this Court to
21 continue the trial(s) in the instant case until a later date.¹ In support of this motion, the United
22 States makes the following representations.

23 1. A superseding indictment was returned in this case by the grand jury on
24 May 1, 2008. Defendants Verdera and Bartolome are charged with Conspiracy to Smuggle Bulk
25 Cash Out of the United States and Bulk Cash Smuggling Out of the United States, in violation of
26 18 U.S.C. § 371, and 18 U.S.C. §§ 5332 and 5322, respectively. Defendant Bartolome is

27
28 ¹ The parties are awaiting a ruling on Defendant Verdera's Motion for Severance.

1 charged with Importation of Methamphetamine Hydrochloride, in violation of 21 U.S.C. §§
2 952(a) and 960. The United States seeks forfeiture of \$810,631 in U.S. currency in connection
3 with the bulk cash smuggling-related offenses.

4 2. Significantly, there is foreign evidence in this case which are relevant and
5 necessary for prosecution of the charges including the forfeiture of \$810,631 in U.S. currency.
6 This evidence includes records from foreign government agencies and foreign bank accounts
7 located in the Federal Republic of Germany and the Philippines.

8 3. The government has requested foreign evidence, specifically records from
9 foreign bank accounts and foreign government agencies in Germany by Letter Rogatory to the
10 Federal Republic of Germany, which was filed on June 20, 2008, in the U.S. District Court for
11 the District of Guam, IN RE: Letter Rogatory to the Federal Republic of Germany in the
12 Investigation and Prosecution of Ernesto Paglicawan Verdera and Mark Anthony Bartolome,
13 Misc. Case No. 08-00025.

14 4. The government is also preparing an additional request for foreign evidence with
15 the Department of Justice Office of International Affairs (“OIA”) to obtain foreign bank records
16 from the Philippines. Following the review process, OIA will forward the request to the Central
17 Authority of the Republic of the Philippines, pursuant to the Mutual Legal Assistance Treaty
18 (“MLAT”) which governs such requests between the United States and the Philippines. The
19 request seeks bank records from two different banks located in the Philippines.

20 5. Denial of this request for additional time as set forth above could result in a
21 miscarriage of justice and the ends of justice served by granting this request are in the best
22 interest of the public and clearly outweigh the defendants’ interests in a speedy trial.

23 6. This is the government’s first request for a continuance of the trial in this matter.
24 Further, the defendants will not be unduly prejudiced by a continuance of the trial date.

25 7. The additional time requested by this motion is excludable in computing the
26 time within which the trial herein must commence pursuant to the Speedy Trial Act, 18 U.S.C.
27 §§ 3161(h)(1)(F), 3161(h)(9), and 3161(h)(8)(A), considering the factors under 18 U.S.C.

1 § 3161(h)(8)(B)(i) and (ii).

2 8. Undersigned counsel contacted Linda Otani McKinney, Senior Trial Attorney
3 with OIA, who will forward the Letter Rogatory to the appropriate diplomatic channels to
4 Germany. According to McKinney's estimation, the production of the records that the
5 government has requested in its Letter Rogatory may take at least six (6) months.

6 9. Consequently, the government requests that the Court set an interim status
7 hearing date so that the parties and the Court may reach a new trial date(s) in accordance with
8 this request that is mutually convenient for all parties and the Court.

9 WHEREFORE, for all the foregoing reasons, the United States respectfully requests that
10 this Court, in the interests of justice, grant the government's request to continue the trial in this
11 matter.

12 RESPECTFULLY submitted this 27th day of June 2008.

13
14 LEONARDO M. RAPADAS
15 United States Attorney
16 Districts of Guam and CNMI

17 By: /s/ Marivic P. David
18 MARIVIC P. DAVID
19 Assistant U.S. Attorney
20
21
22
23
24
25
26
27
28